



Brett Douglas McDowell
c/o Red River Rebellion Ltée
1460 Chevrier Blvd #200,
Winnipeg, MB R3T 1Y6

legal@redriver-rebellion.ca
+12042025904

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VIA CERTIFIED MAIL AND EMAIL

Jacob D. Albertson

MITCHELL SILBERBERG & KNUPP LLP
437 Madison Ave., 25th Floor
New York, New York 10022-7001
Phone: (917) 546-7714
Fax: (917) 546-7679
Email: j1a@msk.com

Tanya L. Menton

Marvel Entertainment, LLC
500 South Buena Vista Street
Burbank, CA 91521
Email: tanya.l.menton@disney.com

Bryan J. Freedman

FREEDMAN + TAITELMAN, LLP
1801 Century Park West, 5th Floor
Los Angeles, California 90067
Phone: (310) 201-0005
Fax: (310) 201-0045
Email: bfreedman@ftllp.com

Re: Lively v. Wayfarer Studios LLC et al., Case No. 24-CV-10049 (S.D.N.Y.) — Request for Preservation and Disclosure of Materials Relating to "Dogpool," "Nicepool," and Related Matters

Dear Counsel and Representatives of The Walt Disney Company, Marvel Entertainment, LLC, and Wayfarer Studios LLC,

I am writing to formally request that this letter be preserved and included among the materials responsive to the subpoena issued by the Wayfarer Parties in the above-referenced litigation. Given the nature of the discovery requests concerning the creation, development, and portrayal

of "Dogpool," "Nicepool," and related characters in *Deadpool & Wolverine*, it is essential that all relevant documents, communications, and creative materials be preserved and disclosed in full.

I respectfully submit the following information for preservation:

- In 2021, my spouse, Eiko Ishiwata McDowell, and I began raising concerns regarding the potential unauthorized use of our personal likenesses, lived experiences, and creative concepts in Disney-affiliated projects, including *Free Guy* and *Welcome to Wrexham*.
- These concerns were communicated internally to Disney-affiliated counsel and included detailed written statements, supporting documentation, and contemporaneous evidence.
- Despite being in possession of credible concerns and substantial evidence, Disney conducted an internal review that was grossly inadequate, resulting in false or materially inaccurate conclusions regarding the allegations. Subsequent disclosures by Marvel Entertainment and tacit admissions by Ryan Reynolds now contradict Disney's earlier implied findings, demonstrating that the company failed to meaningfully investigate, failed to prevent foreseeable harm, and misrepresented its internal handling of serious concerns.
- Given Disney's prior receipt of concerns regarding Mr. Reynolds' conduct — including concerns that certain portrayals and creative choices could reasonably be perceived as harassing or retaliatory — Disney and Marvel ought reasonably to have recognized the risk of continued misconduct. Nevertheless, Disney failed to take meaningful action. Similar patterns of conduct appear to have continued, culminating in allegations raised by Justin Baldoni concerning the character "Nicepool" in *Deadpool & Wolverine*. Ryan Reynolds should have been reprimanded or otherwise counseled regarding these behaviors at an earlier stage. The failure to do so is highly relevant to demonstrating a pattern of conduct now at issue in these proceedings.

In addition, subsequent public reports and disclosures indicate that Ryan Reynolds and Rob McElhenney maintained a pre-existing relationship dating back several years prior to the public announcement of their Wrexham AFC acquisition. These reports suggest that Reynolds was aware of McElhenney's involvement in the television series *Mythic Quest* during its early development.

Public interviews also confirm that given Mr. Reynolds' publicly acknowledged role as a producer on *Free Guy*, he was actively involved in script revisions and creative development during filming (May–July 2019), while maintaining professional ties to individuals connected to the gaming industry. In light of these publicly reported connections and overlapping production timelines, it is reasonable to infer that Disney and its affiliates were, or reasonably should have been, aware of potential risks associated with brand cross-promotion, potential appropriation of real-world experiences, and concerns regarding retaliation spanning *Free Guy*, *Mythic Quest*,

Deadpool & Wolverine, and related projects. These factors further underscore the material relevance of documents relating to these productions for purposes of discovery.

Additionally, publicly available information reflects that concept artist William Groebe contributed to all three projects—*Free Guy*, *Mythic Quest*, and *Deadpool & Wolverine*—which may be relevant in evaluating continuity of creative approaches across these properties. This connection further supports the importance of preserving and reviewing all related development materials.

I respectfully highlight that our prior concerns included deeply distressing references to a personal incident involving my spouse, Eiko Ishiwata McDowell, at the 2017 Game Developers Conference (GDC), where she reported experiencing symptoms consistent with suspected drugging.

Aspects of the targeting and trivialization described herein implicate serious concerns under harassment protection frameworks, including protections against retaliation for reporting sexual harassment or related misconduct. My spouse's disclosure regarding a suspected drugging incident at the 2017 Game Developers Conference (GDC) — a matter involving serious trauma and vulnerability — precedes many of the creative portrayals now at issue. The subsequent incorporation of similar themes in *Mythic Quest*, alongside the broader exclusionary and retaliatory patterns described herein, raises substantial concerns that the protected activity of reporting trauma may have triggered systemic retaliation. These concerns further reinforce the need for full preservation and review of all relevant materials, including internal discussions regarding harassment, retaliation, and handling of trauma-related disclosures.

Elements paralleling this experience — including coercive behavior, power dynamics, and the inappropriate depiction of a sexualized AI character incorporating elements from Eiko Ishiwata McDowell's social media presence and personal trauma — appeared in *Mythic Quest*, produced by Rob McElhenney. Given our pre-existing professional relationships, confidential disclosures, and nondisclosure agreements with Ubisoft employees, the incorporation of these elements can reasonably be perceived as retaliatory in nature. Notably, *Mythic Quest* also included the prominent use of a medieval shield design bearing a striking resemblance to the Wrexham AFC crest, despite the fact that the legal acquisition of the club had not yet occurred. This shield imagery, along with broader thematic elements, bears significant similarity to designs and motifs from our project *Valiant Mirror*, which had been publicly shared prior to *Mythic Quest*'s release. The inclusion of these elements, combined with the prior notice given to Disney, Marvel, and associated parties, moves beyond mere artistic liberties and raises serious concerns of knowing retaliation and harassment through derivative portrayals. Further distress was caused by the *Deadpool and Korg React* promotional video — an official Marvel and Disney-affiliated production — which blurred the line between Reynolds' Marvel persona and the themes of *Free Guy*, another project tied to these concerns. Ryan Reynolds' own public commentary, including references to projects being “based on a true story” and the alleged use of “breadcrumbs,” further supports an inference that he knowingly blended real-world experiences into fictionalized portrayals. Given Marvel's active participation in this cross-promotion, and Disney's prior notice of these issues, the preservation of related materials is critical to assessing a broader, sustained

pattern of conduct relevant to the claims at issue.

It is also important to note that I am a citizen of the Red River Métis Nation (Native Canadian/Indigenous). In this context, the harm resulting from these actions carries additional racialized dimensions. Marvel's historical record reflects that Wolverine's backstory included Indigenous heritage, with John Byrne, co-creator of the modern Wolverine canon, publicly stating: "His (Logan's) mother was a Native Canadian and he'd lived up in the mountains for most of his life, feral, until he was found by James Hudson" (*Comics Creators on X-Men*). Despite this history, adaptations such as *X-Men Origins: Wolverine*—where Ryan Reynolds and Hugh Jackman first appeared together in these roles—have faced longstanding criticisms regarding Indigenous erasure and the casting of individuals later alleged to be "Pretendians."

The exclusion of authentic Indigenous representation, both in these projects and more broadly, forms a critical backdrop against which the retaliatory and appropriative conduct alleged here must be understood. In light of this historical context, the incorporation of personal trauma relating to an Indigenous developer into fictionalized portrayals without consent, and in a manner suggestive of mockery, raises serious concerns regarding whether racial and cultural biases played a role in the decision to target and harm us. These concerns are further compounded by the absence of genuine Indigenous voices in derivative works, and the subsequent enrichment of non-Indigenous figures. Given Disney's and Marvel's prior notice of these concerns, and their broader historical pattern, the discovery of related materials is essential to fully assess patterns of racial exclusion, harassment, and unjust enrichment relevant to the claims at issue.

Given Mr. Reynolds' long-standing professional association with projects such as *X-Men Origins: Wolverine*, and his creative leadership roles in subsequent Marvel and Disney-affiliated productions, these concerns regarding the perpetuation of Indigenous erasure and retaliatory conduct carry additional racialized weight.

Our project *Valiant Mirror* was publicly understood within the Montreal independent game community as a socially impactful JRPG intended to help children and young adults cope with feelings of loneliness, bullying, and trauma, including experiences stemming from relationships involving individuals with high-conflict or antisocial traits. Drawing on lived experience, professional consultation, and artistic innovation, *Valiant Mirror* emphasized resilience, hope, and emotional healing — themes which align closely with the objectives publicly associated with *It Ends With Us*. Observing that similar patterns of appropriation, commercialization, and exclusion have been alleged in connection with both projects further reinforces the concerns outlined herein. This parallel underscores the critical importance of preserving all relevant materials reflecting internal discussions about the adaptation, marketing, and handling of real-world experiences and socially meaningful narratives across Disney, Marvel, and affiliated productions.

Subsequent public commentary and independent online analysis have corroborated aspects of the concerns I initially submitted internally to Disney-affiliated counsel in 2021, including

patterns of targeting, retaliation, and appropriation of lived experiences for commercial gain. This broader public discourse — involving independent observers and analysts — further underscores the importance of preserving and reviewing all relevant materials.

- Based on prior internal submissions, Disney and Marvel already possess succinct evidence directly relevant to the concerns outlined herein, including materials sufficient to assess the nature of my complaints and their relevance to the claims and defenses at issue in these proceedings.
- In light of recent admissions and disclosures made by Marvel and Mr. Reynolds in the present proceedings, which shed new light on the concerns previously raised and act as tacit confirmations of certain patterns of conduct, a detailed personal statement documenting these concerns, along with supporting materials, is being compiled and can be made available to the Court or to counsel upon request, subject to review and authorization by my anticipated U.S. legal counsel prior to submission.

Accordingly, I respectfully request that Disney and Marvel preserve and produce the following categories of materials:

- All documents, communications, creative drafts, visual development materials, meeting notes, and correspondence relating to the creation, development, modification, or portrayal of "Dogpool," "Nicepool," and *Deadpool & Wolverine*;
- All documents, communications, creative drafts, and development records relating to *Free Guy* and *Welcome to Wrexham*, as these materials demonstrate an ongoing pattern of behavior relevant to the claims and defenses in this litigation;
- All documents referencing myself, Brett Douglas McDowell, my spouse Eiko Ishiwata McDowell, Studio Ishiwata, or our project *Valiant Mirror*;
- Any internal memoranda, legal analyses, investigation records, or communications reflecting receipt, review, or discussion of prior concerns raised by myself or my spouse, and any subsequent actions taken (or not taken) by Disney, Marvel, or their affiliates.

I respectfully remind Disney and Marvel that the Federal Rules of Civil Procedure require the preservation of relevant materials once litigation is reasonably anticipated. Given the matters outlined above and the pending discovery disputes in *Lively v. Wayfarer Studios LLC*, prompt preservation of all potentially relevant documents, communications, and creative materials is not only requested but legally required. Failure to preserve relevant evidence may result in adverse inferences or other remedial measures.

This request is made solely to supplement the factual record in connection with the subpoena issued in *Lively v. Wayfarer Studios LLC*. I do not intend this communication to assert legal claims at this time. However, in light of the serious matters involved, I trust that full preservation and compliance with applicable discovery obligations will be ensured.

This correspondence is made solely for the purpose of requesting preservation of evidence and ensuring fair consideration of matters involving significant public interest. It is not intended as an assertion of legal liability or wrongdoing.

Please confirm receipt of this letter and the inclusion of these matters in your preservation and subpoena response protocols.

Thank you for your attention to this important matter.

Respectfully,



Brett Douglas McDowell
c/o Red River Rebellion Ltée
1460 Chevrier Blvd #200,
Winnipeg, MB R3T 1Y6

legal@redriver-rebellion.ca
+12042025904